

Service Date: March 18, 1999

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF U S WEST)	UTILITY DIVISION
COMMUNICATIONS, INC., Complaint by)	
Donald H. Kern Concerning Service)	DOCKET NO. D99.2.21
)	ORDER NO. 6157

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

On January 13, 1999, Donald Kern filed a formal complaint before the Public Service Commission (PSC) against U S West Communications, Inc. (USWC). Kern's complaint alleges an inexcusable, January 9, 1999, 12-hour disconnect by USWC of service to Montana Communications Network (MCN), an Internet service provider, which deprived Kern of Internet use and billable hours and required Kern's time to respond to concern or confusion the disconnect generated for some of the hundreds of persons Kern has connected to MCN.

On February 4, 1999, the PSC issued a Notice of Complaint to USWC. On February 24, 1999, USWC responded, stating that Kern has failed to state a claim upon which the PSC can grant relief, challenging Kern's standing to complain, and claiming insufficient information to admit or deny the allegations raised. USWC also states that the phone number alleged to have been disconnected serves MCN and MCN has not complained. USWC alleges that Kern only maintains a non-published number for residential service.

On March 2, 1999, Kern filed a reply to USWC's response. Kern states that he has stated a claim, which is that USWC disconnected service to Kern's Internet service provider and the disconnection cause serious damage to Kern's business and the business of Kern's customers. Kern also argues that USWC's asserted insufficient information is absurd because there is more than sufficient information in Kern's complaint. Kern alleges that MCN has actually complained to USWC. Kern also states that he has a business, MacMagic, LLP, which maintains a business phone served by USWC. Kern also states that he has a legally binding agreement to act as MCN's representative.

The PSC determines that Kern's January 13, 1999, complaint does not include sufficient information, especially in light of Kern's March 1, 1999, reply, to proceed in any meaningful and productive fashion. The absence of sufficient information does not necessarily pertain to the disconnect and resulting service outage, but in what capacity Kern is complaining and in regard to related questions of standing to complain. The PSC agrees with USWC that Kern does not appear to have standing to complain under the circumstances. MCN, if MCN believes a complaint is necessary, appears to be the proper entity to make the complaint in the present instance.

Kern's January 13, 1999, complaint is hereby dismissed, without prejudice.

Done and dated this 9th day of March, 1999, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chair

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

GARY FELAND, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.